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9 Attorneys for Plaintiff
10 CALIFORNIA RIVER WATCH

11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 CALIFORNIA RIVER WATCH, a
14 501(c)(3) nonprofit, public benefit
15 Corporation,

16 Plaintiff,

17 v.

18 CITY OF EUREKA,

19 Defendant.
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CASE NO: 3:14-cv-01253 JCS

**CERTIFICATE OF SERVICE OF
COMPLAINT ON UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY AND UNITED STATES
DEPARTMENT OF JUSTICE**

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CERTIFICATE OF SERVICE

I am employed in the County of Sonoma, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 100 E Street, Suite 318, Santa Rosa, CA 95404. On the date set forth below, I served the following described document(s):

COMPLAINT FOR INJUNCTIVE RELIEF, DECLARATORY RELIEF, CIVIL PENALTIES, RESTITUTION AND REMEDIATION (Environmental - Clean Water Act 33 U.S.C. § 1251, *et seq*)

on the following parties by placing a true copy in a sealed envelope, addressed as follows:

Citizen Suit Coordinator
U.S. Dept. of Justice
Environmental & Natural Resource Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, DC 20044-7415

Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

☒ (BY MAIL) I placed each such envelope, with postage thereon fully prepaid for first-class mail, for collection and mailing at Santa Rosa, California, following ordinary business practices. I am readily familiar with the practices of Law Office of Jack Silver for processing of correspondence; said practice being that in the ordinary course of business, correspondence is deposited with the United States Postal Service the same day as it is placed for processing.

☐ (BY FACSIMILE) I caused the above referenced document(s) to be transmitted by Facsimile machine (FAX) 707-528-8675 to the number indicated after the address(es) noted above.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct, and that this declaration was executed on March 18, 2014 at Santa Rosa, California.

Wojciech P. Makowski
Wojciech P. Makowski

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6 CALIFORNIA RIVER WATCH

7 UNITED STATES DISTRICT COURT

8 NORTHERN DISTRICT OF CALIFORNIA

9 CALIFORNIA RIVER WATCH, a
501(c)(3) nonprofit public benefit
10 corporation,

11 Plaintiff,

12 v.

13 CITY OF EUREKA,

14 Defendant.

CASE NO.:

COMPLAINT FOR INJUNCTIVE
RELIEF, CIVIL PENALTIES,
RESTITUTION AND REMEDIATION
[Environmental - Clean Water Act
33 U.S.C. § 1251 *et seq.*]

15 NOW COMES plaintiff CALIFORNIA RIVER WATCH a 501(c)(3) nonprofit, public
16 benefit corporation ("RIVER WATCH") by and through its attorneys, and for its Complaint
17 against Defendant CITY OF EUREKA ("the CITY") states as follows:

18 **I. NATURE OF THE CASE**

19 1. This is a citizens' suit for relief brought by RIVER WATCH under the Federal Water
20 Pollution Control Act, also known as the Clean Water Act ("CWA"), 33 U.S.C. §1251 *et seq.*,
21 specifically CWA §§ 301, 402, and 505, 33 U.S.C. §§ 1311, 1342 and 1365, to prevent the CITY
22 from repeated and ongoing violations of the CWA. These violations are detailed in the 'Notice
23 of Violations and Intent to File Suit' dated June 28, 2013 (hereafter, "CWA NOTICE") made
24 part of this pleading and attached hereto as EXHIBIT A.

25 2. RIVER WATCH alleges the CITY is routinely violating the CWA by violating the
26 effluent discharge standards or limitations set forth in the National Pollutant Discharge
27 Elimination System ("NPDES") Permit under which the CITY's sewage treatment facility and
28 associated collection system is regulated. The CITY's sewage treatment facility and associated

1 collection system is regulated Regional Water Quality Control Board ("RWQCB") Order R1-
2 2009-0033, No. CA 0024449 which was adopted by the RWQCB on June 4, 2009 and became
3 effective on July 24, 2009.

4 3. RIVER WATCH alleges the CITY is routinely violating the RWQCB Water Quality
5 Control Plan or "Basin Plan," Environmental Protection Agency ("EPA") regulations codified
6 in the Code of Federal Regulations, and toxics standards promulgated by the State Water
7 Resources Control Board in the course of the CITY's operation of its sewage treatment facility
8 and associated collection system as described in the CWA NOTICE.

9 4. RIVER WATCH alleges the CITY illegally discharges pollutants to waters which are
10 habitat for threatened or endangered species as that term is defined by the California EPA and
11 the United States EPA.

12 5. RIVER WATCH seeks declaratory relief, injunctive relief to prohibit future violations,
13 the imposition of civil penalties, and other relief for the CITY's violations of the terms of its
14 NPDES Permit – Order No. Order R1-2009-0033, NPDES Permit CA 0024449.

15 II. PARTIES TO THE ACTION

16 6. Plaintiff CALIFORNIA RIVER WATCH, is a 501(c)(3) nonprofit, public benefit
17 Corporation duly organized under the laws of the State of California, with headquarters and main
18 office located at 290 S. Main Street, #817, Sebastopol, California. RIVER WATCH is dedicated
19 to protect, enhance, and help restore surface and ground waters of California including rivers,
20 creeks, streams, wetlands, vernal pools, aquifers and associated environs, biota, flora and fauna.
21 And to educate the public concerning environmental issues associated with these environs.

22 7. Members of RIVER WATCH live nearby to waters affected by the CITY's illegal
23 discharges as alleged in this Complaint. Said members have interests in the watershed identified
24 in this Complaint, which interests are or may be adversely affected by the CITY's violations of
25 the CWA as alleged herein. Said members use the effected waters and watershed area for
26 domestic water, recreation, sports, fishing, swimming, hiking, photography, nature walks,
27 religious, spiritual and shamanic practices, and the like. Furthermore, the relief sought will
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1 redress the injury in fact, likelihood of future injury and interference with the interests of said
2 members.

3 8. RIVER WATCH is informed and believes and on such information and belief alleges that
4 Defendant CITY OF EUREKA is now, and at all times mentioned in this Complaint was, a
5 municipality formed under the laws of the State of California, with administrative offices
6 located at 501 K Street, Eureka, California.

7 **III. JURISDICTIONAL ALLEGATIONS**

8 9. Under 33 U.S.C. § 1251(e), Congress declared its goals and policies with regard to public
9 participation in the enforcement of the CWA. 33 U.S.C. § 1251(e) provides, in relevant part:

10 Public participation in the development, revision, and enforcement of any
11 regulation, standard, effluent limitation, plan or program established by the
12 Administrator or any State under this chapter shall be provided for, encouraged,
and assisted by the Administrator and the States.

13 10. Subject matter jurisdiction is conferred upon this Court by CWA § 505(a)(1), 33 U.S.C.
14 § 1365(a)(1), which states in relevant part,

15 “... any citizen may commence a civil action on his own behalf - against any
16 person . . . who is alleged to be in violation of (A) an effluent standard or
17 limitation. . . or (B) an order issued by the Administrator or a State with respect
to such a standard or limitation ...”

18 For purposes of CWA § 505, “the term ‘citizen’ means a person or persons having an
19 interest which is or may be adversely affected.” (33 U.S.C. § 1365(g)).

20 11. All illegal discharges and activities complained of in this Complaint and in the CWA
21 NOTICE occur in Humboldt Bay and its tributaries, all waters of the United States.

22 12. Members and supporters of RIVER WATCH reside in the vicinity of, derive livelihoods
23 from, own property near, and/or recreate on, in or near, and/or otherwise use, enjoy and benefit
24 from the waterway and associated natural resource into which the CITY allegedly discharges
25 pollutants, or by which its operations adversely affect those members’ interests, in violation of
26 the protections embedded in the NPDES permitting program and CWA § 301(a), 33 U.S.C. §
27 1311(a), CWA § 505(a)(1), 33 U.S.C. § 1365(a)(1), CWA § 402, and 33 U.S.C. § 1342. The
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1 health, economic, recreational, aesthetic and environmental interests of RIVER WATCH and
2 its members may be, have been, are being, and will continue to be adversely affected by the
3 CITY's unlawful violations as alleged herein. RIVER WATCH contends there exists an injury
4 in fact to its members, causation of that injury by the CITY's complained of conduct, and a
5 likelihood that the requested relief will redress that injury.

6 13. Pursuant to CWA § 505(b)(1)(A), 33 U.S.C. § 1365(b)(1)(A), notice of the CWA
7 violations alleged in this Complaint was given more than sixty (60) days prior to commencement
8 of this lawsuit, to: (a) the CITY, (b) the United States EPA, Federal and Regional, and (c) the
9 State of California Water Resources Control Board.

10 14. Pursuant to CWA § 505(c)(3), 33 U.S.C. § 1365(c)(3), a copy of this Complaint has been
11 served on the United States Attorney General and the Administrator of the Federal EPA.

12 15. Pursuant to CWA § 505(c)(1), 33 U.S.C. § 1365(c)(1), venue lies in this District as the
13 sewage treatment facility and associated collection system under the CITY's operation and/or
14 control, and the sites where illegal discharges occurred, which are the source of the violations
15 complained of in this action, are located within this District.

16 **IV. GENERAL ALLEGATIONS**

17 16. RIVER WATCH incorporates by reference all the foregoing including the CWA
18 NOTICE as though the same were separately set forth herein.

19 17. The CITY owns and operates the City of Eureka Wastewater Treatment Facility
20 ("Facility") and its associated wastewater collection system which provides sewage collection
21 services for a population of approximately 44,128 from the City of Eureka and unincorporated
22 areas within the Humboldt Community Services District, and treats domestic, commercial,
23 industrial, and treated groundwater remediation wastewater. The collection system consists of
24 approximately 11 miles of pressure lines and 119 miles of gravity sewer main. The discharge of
25 treated wastewater from the Facility is regulated under Order No. R1-2009-0033, NPDES Permit
26 CA 0024449. The Facility has an average dry weather design treatment capacity of 5.24 mgd,
27 a peak dry weather design capacity of 8.6 mgd, a peak wet weather treatment capacity of 12 mgd
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1 and a peak wet weather hydraulic capacity of 32 mgd. Treated wastewater is contained in an
2 effluent holding pond and discharged to Humboldt Bay through Discharge Point 001 via a 3,000
3 foot outfall line that terminates on the east side of the shipping channel at a depth of 30 feet.
4 Discharge only occurs at ebb tide which is intended to assure that effluent is conveyed to the
5 Pacific Ocean. RIVER WATCH contends that a portion of the discharged effluent remains
6 within Humboldt Bay, where it contaminates shell fish and other natural resources.

7 18. The Facility's associated collection system has experienced high inflow of rain water and
8 infiltration of ground water (I/I) during wet weather. Approximately 70% of the CITY's gravity
9 lines were constructed prior to 1970. Half of that 70% were constructed prior to 1920.
10 Structural defects in the collection system, which allow I/I into the sewer lines, result in a
11 buildup of pressure which causes sewer system overflows ("SSO"). Overflows caused by
12 blockages and I/I result in the discharge of raw sewage into gutters, canals, and storm drains
13 which are connected to adjacent surface waters. As recorded in California Integrated Water
14 Quality System's ("CIWQS") Public SSO Reports, the collection system has experienced 16
15 SSOs between August 5, 2009 and December 2, 2012, with a combined spill volume of 126,670
16 gallons – 116,400 gallons of which reached surface waters. On February 21, 2012, a spill
17 occurred at 321 I Street, Eureka. The total estimated volume of the spill was 2,000 gallons, the
18 estimated volume which reached Humboldt Bay was 1,600 gallons.

19 19. The CITY has a history of non-compliance with the SSO reporting requirements of the
20 Statewide General Requirements for Sanitary Sewer Systems, Waste Discharge Requirements
21 ("WDR") Order No. 2006-0003-DWQ ("Statewide WDRs,") governing the operation of sanitary
22 sewer systems. NPDES Permit CA 0024449, Section VI.C.5.a.(1), requires compliance with all
23 provisions of the Statewide WDRs. The CITY's field reports regularly designate the SSO start
24 time as the same time the CITY was notified of the SSO. These equivalencies are highly unlikely
25 and result in an under-estimation of the duration of the spill. The CITY's common practice of
26 under-estimating the duration of the spill leads to underestimating the volume of the spill. The
27 CITY's SSO records generally do not indicate what method was used to estimate the total
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1 volume of the spill, which also calls into question the estimates of volume recovered and volume
2 which reached a surface water. RIVER WATCH alleges that the CITY has mistakenly reported
3 SSOs which reached a curb or gutter as not reaching a surface water.

4 20. In addition to SSOs which discharge over land into surface waters, underground leakages
5 ("exfiltration") caused by pipeline cracks and other structural defects in the Facility's associated
6 collection system result in discharges to adjacent surface waters via underground hydrological
7 connections. RIVER WATCH alleges that such discharges are continuous wherever ageing,
8 damaged, structurally defective sewer lines in the collection system are located adjacent to
9 surface waters, including the Elk River and Humboldt Bay, both waters of the United States. The
10 CITY's chronic collection system failures pose a substantial threat to public health as surface
11 waters and groundwater become contaminated with fecal coliform, exposing people to human
12 pathogens.

13 21. The Statewide WDRs require the CITY to take all feasible steps and perform necessary
14 remedial actions following the occurrence of a SSO including limiting the volume of waste
15 discharged, terminating the discharge, and recovering as much of the wastewater as possible.
16 One of the most important remedial measures is the performance of adequate sampling in order
17 to determine the nature and the impact of the release. There is no evidence of adequate sampling
18 of SSOs found in the public record for the CITY. RIVER WATCH alleges the CITY has failed
19 to perform sampling to determine the impact of SSOs from its collection system as required by
20 the Statewide WDRs.

21 22. RIVER WATCH alleges that both surface and underground SSOs have ongoing harmful
22 effects on critical habitat in and around Humboldt Bay and its tributaries.

23 23. RIVER WATCH alleges the CITY has a history of exceedances of the 6-month median
24 effluent limit for copper as such limit is stated in its NPDES Permit. The CITY's recently
25 completed Effluent Discharge Study concluded that current discharge practices do not convey
26 100% of the discharged wastewater to the Pacific Ocean. The Study's Reasonable Potential
27 Analysis showed that the CITY's wastewater discharge could have a reasonable potential to
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1 cause exceedances of Water Quality Objectives in the Ocean Plan and the California Toxics
2 Rule. RIVER WATCH alleges that the CITY is discharging copper and cyanide at levels
3 exceeding Water Quality Objectives into Humboldt Bay, where these pollutants contaminate
4 shellfish and other natural resources.

5 24. The RWQCB has determined that Humboldt Bay, its watershed areas and affected
6 waterways are beneficially used for water contact recreation, non-contact water recreation, fresh
7 water habitat, wildlife habitat, preservation of rare and endangered species, fish migration, fish
8 spawning, industrial service supply, navigation, and sport fishing.

9 **V. STATUTORY AND REGULATORY BACKGROUND**

10 25. CWA § 301(a), 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a “point
11 source” into the navigable waters of the United States, unless such discharge is in compliance
12 with applicable effluent limitations as set by the EPA and the applicable State agency. These
13 limits are to be incorporated into a NPDES permit for that specific point source. The effluent
14 discharge standards or limitations specified in a NPDES Permit define the scope of the
15 authorized exception to the CWA § 301(a), 33 U.S.C. § 1311(a), prohibition, such that violation
16 of a permit limit places a polluter in violation of CWA § 301(a), 33 U.S.C. § 1311(a) and thus
17 in violation of the CWA. Additional sets of regulations are set forth in the applicable Regional
18 Water Quality Control Board’s Water Quality Control Plan or “Basin Plan,” the California
19 Toxics Rule, the Code of Federal Regulations and other regulations promulgated by the EPA and
20 the State Water Resources Control Board. CWA § 301(a), 33 U.S.C. § 1311(a) prohibits
21 discharges of pollutants or activities not authorized by, or in violation of an effluent standard or
22 limitation or an order issued by the EPA or a State with respect to such a standard or limitation
23 including a NPDES permit issued pursuant to CWA § 402, 33 U.S.C. § 1342. The Facility and
24 its associated collection system are point sources under the CWA.

25 26. The affected waterways detailed in this Complaint and in the CWA NOTICE are
26 navigable waters of the United States within the meaning of CWA § 502(7), 33 U.S.C. §
27 1362(7).
28

1 27. The Administrator of the EPA has authorized the Regional Water Quality Control Board
2 to issue NPDES permits, subject to specified conditions and requirements, pursuant to CWA §
3 402, 33 U.S.C. § 1342.

4 **VI. VIOLATIONS**

5 28. The CITY's violations of the terms of Order No R1-2009-0033, NPDES Permit CA
6 0024449, as detailed herein and in the CWA NOTICE, are violations of CWA § 301(a), CWA,
7 33 U.S.C. § 1311(a). The violations are established in RWQCB files relating to the Facility and
8 the associated collection system, as well as in studies conducted by the CITY in compliance with
9 orders from regulatory agencies. The enumerated violations are incorporated herein by reference,
10 and below, designating the section of the CWA and the section of the CITY's NPDES Permit
11 violated by the described activity.

12 29. The location of the discharges are the discharge points as described herein and in the
13 CWA NOTICE.

14 **VII. CLAIM FOR RELIEF**

15 **Violation of Order No. R1-2009-0033, NPDES Permit CA 0024449 Pursuant to CWA §**
16 **505(a), 33 U.S.C. § 1365(a), CWA § 301(a), 33 U.S.C. § 1311(a), CWA §§ 401(a) and (b),**
17 **33 U.S.C. §§ 402(a) and (b)**

18 RIVER WATCH realleges and incorporates by reference the allegations of Paragraphs
19 1 through 29, including the CWA NOTICE as though fully set forth herein. RIVER WATCH
20 is informed and believes, and on such information and belief alleges, as follows:

21 30. The CITY has violated and continues to violate the CWA as evidenced by the discharges
22 of pollutants from a point source, (sewer lines in the CITY's collection system,) to adjacent
23 waters of the United States (Humboldt Bay) in violation of Sections III E. and III.F. of Order
24 No.R1-2009-0033, NPDES Permit CA 0024449, and therefore in violation of CWA § 301(a),
25 CWA, 33 U.S.C. § 1311(a).

26 31. The CITY has violated and continues to violate the CWA as evidenced by the discharges
27 of pollutants from a point source (Discharge Point 001) to Humboldt Bay whereby some
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1 wastewater remains in Humboldt Bay and is not dispersed into the Pacific Ocean, in violation
2 of Section III.A of Order No. R1-2009-0033, NPDES Permit CA 0024449, and therefore in
3 violation of CWA § 301(a), 33 U.S.C. § 1311(a).

4 32. The CITY has violated and continues to violate the CWA as evidenced by the past and
5 ongoing discharges of pollutants from a point source (Discharge Point 001) which exceed the
6 6-month median effluent limit for copper as set forth in Section IV.A.1.a. of Order No. R1-2009-
7 0033, NPDES Permit CA 0024449, and therefore in violation of CWA § 301(a), 33 U.S.C. §
8 1311(a).

9 33. The violations of the CITY are ongoing and will continue after the filing of this
10 Complaint. RIVER WATCH alleges herein all violations which may have occurred or will
11 occur prior to trial, but for which data may not have been available or submitted or apparent from
12 the face of the reports or data submitted by the CITY to the RWQCB or to RIVER WATCH
13 prior to the filing of this Complaint. RIVER WATCH will amend the Complaint if necessary
14 to address the CITY's State and Federal violations which may occur after the filing of this
15 Complaint. Each of the CITY's violations is a separate violation of the CWA.

16 34. RIVER WATCH avers and believes and on such belief alleges that without the imposition
17 of appropriate civil penalties and the issuance of appropriate equitable relief, the CITY will
18 continue to violate the CWA as well as State and Federal standards with respect to the
19 enumerated discharges and releases. RIVER WATCH avers and believes and on such belief
20 alleges that the relief requested in this Complaint will redress the injury to RIVER WATCH and
21 its members, prevent future injury, and protect their interests which are or may be adversely
22 affected by the CITY's violations of the CWA, as well as other State and Federal standards.

23 **VIII. RELIEF REQUESTED**

24 WHEREFORE, RIVER WATCH requests the following relief:

25 35. Declare the CITY to have violated and to be in violation of the CWA;

26 36. Issue an injunction ordering the CITY to immediately operate the Facility and its
27 associated collection system in compliance with the CWA;

37. Order the CITY to perform the following remedial measures:

a. Repair or replace, within two (2) years, all sewer lines in the CITY's collection system located within two hundred (200) feet from surface waters, which have been CCTV'd within the past five (5) years and were rated as Significantly Defective under the Pipeline Assessment and Certification Program ("PACP") rating system;

b. Perform a Surface Water Condition Assessment, by CCTV, within two (2) years, of sewer lines in the CITY's collection system located within two hundred (200) feet of surface waters, which have not been CCTV'd within the past five (5) years;

c. Within two (2) years after completion of the Surface Water Condition Assessment, repair or replace all sewer lines which have been found to be Significantly Defective under the PACP rating system;

d. Beginning no more than one (1) year after completion of the Surface Water Condition Assessment, commence a Full Condition Assessment by CCTV inspection of all sewer lines in the CITY's collection system not within 200 feet of a surface water, to be completed within seven (7) years. Any sewer pipe segment found to be Significantly Defective under the PACP rating system to be repaired or replaced within two (2) years of the rating determination;

e. Modify the CITY's Backup and SSO response plan to include the method or calculations used for estimating total spill volume, spill volume that reached surface waters and estimating spill volume recovered. For Category I Spills, creation of a listing of nearby residents or business owners who have been contacted to attempt to establish the SSO start time, duration, and flow rate, if such start time, duration, and flow rate have not been otherwise reasonably ascertained, such as from a caller who provides information that brackets a given time that the SSO began. Taking of photographs of the manhole flow at the SSO site using the San Diego Method array, if applicable to the SSO; or other photographic evidence that may aid in establishing the spill volume;

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1 f. Sampling and testing for water quality by the CITY whenever it is estimated that
2 fifty (50) gallons or more of untreated or partially treated waste water from a SSO enters surface
3 waters. Constituents tested for to include: ammonia, fecal coliform, E. coli and a CAM-17 toxic
4 metal analysis. The CITY shall collect and test samples from three (3) locations: the point of
5 discharge, upstream of the point of discharge, and downstream of the point of discharge. If any
6 of said constituents are found at higher levels in the point of discharge sample and the
7 downstream sample than in the upstream sample, the CITY shall determine and address the cause
8 of the SSO that enters surface waters, and employ the following measures to prevent future
9 overflows: (1) if the SSO is caused by a structural defect, then immediately spot repair the defect
10 or replace the entire line; (2) if the defect is non-structural, such as a grease blockage or
11 vandalism to a manhole cover, then perform additional maintenance or cleaning, and any other
12 appropriate measures to fix the non-structural defect;

13 g. Creation by the CITY of web site capacity to track information regarding SSOs;
14 or, in the alternative, the creation of a link from the CITY's website to the CIWQS SSO Public
15 Reports. Notification to all customers and other members of the public of the existence of the
16 web based program, including a commitment to respond to private parties submitting overflow
17 reports;

18 h. Perform human marker sampling on creeks, rivers, and wetlands adjacent to
19 significantly defective sewer lines in the CITY's collection system to test for sewage
20 contamination from exfiltration;

21 i. Create a mandatory, private sewer lateral inspection and repair program triggered
22 by any of the following events: transfer of ownership of the property if no
23 inspection/replacement of the sewer lateral occurred within twenty (20) years prior to the
24 transfer; the occurrence of two (2) or more SSOs caused by the private sewer lateral within two
25 (2) years; a change of the use of the structure served (a) from residential to non-residential use,
26 (b) to a non-residential use that will result in a higher flow than the current non-residential use,
27 and (c) to non-residential uses where the structure served has been vacant or unoccupied for
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1 more than three (3)years; upon replacement or repair of any part of the sewer lateral; upon
2 issuance of a building permit with a valuation of \$25,000.00 or more; upon significant repair or
3 replacement of the main sewer line to which the lateral is attached;

4 j. If a mandatory private sewer lateral inspection and repair program is not approved
5 by the City Council for the CITY, the CITY shall implement an alternative program which is
6 likely to result in a comparable number of inspections and repairs of privately owned sewer
7 laterals, including but not limited to 1) setting up a grant and/or revolving loan program to
8 provide partial loans for the replacement or repair of private sewer laterals, including installation
9 of a property line cleanout, 2) negotiating group discounts rates for the inspection and repair or
10 replacement of private laterals with the contractor employed to replace the main line to which
11 a group of laterals are attached;

12 k. Conduct sampling to verify and assess the extent of beneficial use impairment
13 caused by the failure of the CITY's ebb-tide discharge to convey 100% of the discharged
14 wastewater to the open ocean, and to develop an alternative discharge strategy no later than
15 January 8, 2015. All study results and proposals for alternative discharge strategies shall be
16 provided by the CITY to RIVER WATCH at the same they are provided to the RWQCB.

17 38. Order the CITY to pay civil penalties of \$37,500.00 per violation/per day for its
18 violations of the CWA;

19 39. Order the CITY to pay the reasonable attorneys' fees and costs of RIVER WATCH
20 (including expert witness fees), as provided by CWA § 505(d), 33 U.S.C. § 1365(d).

21 40. For such other and further relief as the court deems just and proper.
22

23 DATED: March 18, 2014


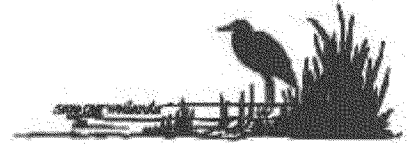

JERRY BERNHAUT
Attorney for Plaintiff
CALIFORNIA RIVER WATCH

EXHIBIT A

Law Office of Jack Silver

P.O. Box 5469 Santa Rosa, California 95402
Phone 707-528-8175 Fax 707-528-8675
lhm28843@sbcglobal.net



***VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED***

June 28, 2013

Clay Yerby, Utilities Operations Manager
Elk River Wastewater Treatment Facility
City of Eureka
531 K Street
Eureka, CA 95501

Re: Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Head of Agency/Operations:

NOTICE

The Clean Water Act ("CWA" or "Act") requires that 60 days prior to the initiation of a civil action under CWA § 505(a), 33 U.S.C. § 1365(a), a citizen must give notice of the intent to sue to the alleged violator, the Environmental Protection Agency ("EPA") and the State in which the violations occur.

California River Watch ("River Watch") hereby places the City of Eureka, Elk River Wastewater Treatment Facility, hereinafter referred to as "the Discharger" on notice, that following the expiration of 60 days from the date of this Notice, River Watch intends to bring suit in the U.S. District Court against the Discharger for continuing violations of an effluent standard or limitation, permit condition or requirement, or a Federal or State Order or Permit issued under CWA § 402 pursuant to CWA § 301(a), and consistent with the Code of Federal Regulations, and the Regional Water Quality Control Board, North Coast Region, Water Quality Control Plan ("Basin Plan") as exemplified by the violations of permit conditions or limitations in the Discharger's National Pollutant Discharge Elimination System ("NPDES") Permit.

INTRODUCTION

The CWA regulates the discharge of pollutants into navigable waters. The statute is structured in such a way that all discharge of pollutants is prohibited with the exception of enumerated statutory provisions. One such exception authorizes a polluter, who has been issued a permit pursuant to CWA § 402, to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the CWA §301(a), 33 U.S.C. §1311(a) prohibition, such that violation of a permit limit places a polluter in violation of the CWA. Private parties may bring citizens' suits pursuant to 33 U.S.C. § 1365 to enforce effluent standards or limitations, as defined under 33 U.S.C. §1365(f) and elsewhere within the Act or enumerating state and federal statutes and limitations.

The CWA provides that authority to administer the NPDES permitting system in any given state or region can be delegated by the EPA to a state or to a regional regulatory agency, provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria. *See* 33 U.S.C. § 1342(b). In California, the EPA has granted authorization to a state regulatory apparatus comprised of the State Water Resources Control Board and several subsidiary regional water quality control boards, to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating discharges in the region at issue in this Notice is the Regional Water Quality Control Board, North Coast Region ("RWQCB").

The CWA requires that any Notice regarding an alleged violation of an effluent standard or limitation, or of an order with respect thereto, shall include sufficient information to permit the recipient to identify the following:

1. *The specific standard, limitation, or order alleged to have been violated.*

River Watch has identified the NPDES permit of the City of Eureka, Elk River Wastewater Treatment Facility and specifically identified the applicable permit standard, limitation or condition being violated in the BACKGROUND section of this Notice. A violation of the NPDES permit is a violation of the CWA.

2. *The activity alleged to constitute a violation.*

Most often, the NPDES Permit limitations being violated are self-explanatory and an examination of the language of the Permit is sufficient to inform the Discharger, especially since the Discharger is responsible for complying with that Permit condition. In addition, River Watch has set forth narratives in this Notice describing with particularity the activities

leading to violations, and has incorporated by reference the Discharger's own records and other public documents in the Discharger's possession or otherwise available to the Discharger regarding its NPDES Permit, compliance with that Permit and any other information designed to inform the Discharger or the public.

3. *The person or persons responsible for the alleged violation.*

The entity responsible for the alleged violations identified in this Notice is the City of Eureka, Elk River Wastewater Treatment Facility identified in this Notice as the Discharger, as owner and operator of the Elk River Wastewater Treatment Facility and its related collection system, as well as those of the Discharger's employees responsible for compliance with the Discharger's NPDES Permit.

4. *The location of the alleged violation.*

The location or locations of the various violations are identified in the Discharger's NPDES Permit and also in records created and/or maintained by or for the Discharger which relate to the Elk River Wastewater Treatment Plant and related activities as further described in this Notice.

5. *The date or dates of violation or a reasonable range of dates during which the alleged activity occurred.*

River Watch has examined both RWQCB files and the Discharger's records with respect to the Elk River Wastewater Treatment Plant for the period from July 24, 2009 through June 10, 2013. The range of dates covered by this Notice is from July 24, 2009 through June 10, 2013. River Watch may from time to time update this Notice to include all violations of the CWA by the Discharger which occur after the range of dates currently covered by this Notice. Some violations are continuous, and therefore each day constitutes a violation.

6. *The full name, address, and telephone number of the person giving notice.*

The entity giving this Notice is California River Watch, referred to herein as "River Watch," 290 S. Main Street, #817, Sebastopol, CA 95472 B a 501(c)(3) non-profit, public benefit corporation organized under the laws of the State of California, dedicated to protect, enhance and help restore the groundwater and surface water environs of California including, but not limited to, its rivers, creeks, streams, wetlands, vernal pools and tributaries. River Watch may be contacted via email: US@ncriverwatch.org or through its attorneys.

River Watch has retained legal counsel with respect to the issues set forth in this Notice. All communications should be addressed as follows:

Jerry Bernhaut, Esq. or Jack Silver, Esq.
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P.O. Box 5469
Santa Rosa, CA 95402-5469
Tel. 707-528-8175
Email: lhm28843@sbcglobal.net

THE DISCHARGER'S OPERATION

The Discharger owns and operates the Elk River Wastewater Treatment Plant ("the Plant") and its associated wastewater collection system consisting of approximately 11 miles of pressure lines and 119 miles of gravity sewer main. The discharge of treated wastewater from the Plant is regulated under Order No. R1-2009-0033, NPDES Permit CA0024449. The Discharger provides sewage collection services for a population of approximately 44,128 in the City of Eureka and unincorporated areas within the Humboldt Community Services District, and treats domestic, commercial, industrial, and treated groundwater remediation wastewater. The Plant has an average dry weather design treatment capacity of 5.24 mgd, a peak dry weather design capacity of 8.6 mgd, a peak wet weather treatment capacity of 12 mgd and a peak wet weather hydraulic capacity of 32 mgd.

The Discharger's NPDES Permit contains several discharge prohibitions related to sewer system overflows ("SSOs"). Discharge Prohibition B of the Permit prohibits the discharge of any waste not within the reasonable contemplation of the RWQCB. Discharge Prohibition C prohibits the creation of pollution, contamination, or nuisances as defined by California Water Code § 13050. Discharge prohibition E prohibits the discharge of untreated or partially treated waste from anywhere in the collection, treatment or disposal system, with specified exceptions. Discharge Prohibition F prohibits SSOs that result in a discharge of untreated or partially treated wastewater to (a) waters of the State, (b) groundwater, or (c) land, that creates pollution, contamination, or nuisances as defined by California Water Code § 13050. A SSO can violate several of these prohibitions at once. Violations of the NPDES Permit are violations of the CWA.

The collection system has experienced high inflow of rain water and infiltration of ground water (I/I) during wet weather. Approximately seventy percent (70%) of the gravity lines were constructed prior to 1970. Half of that, or thirty-five percent (35%), were constructed prior to 1920. Structural defects in the collection system, which allow I/I into the sewer lines, result in a buildup of pressure which causes SSOs. Overflows caused by

blockages and I/I result in the discharge of raw sewage into gutters, canals, and storm drains which are connected to adjacent surface waters – all waters of the United States. As recorded in California Integrated Water Quality System's ("CIWQS") Public SSO Reports, the Discharger's collection system has experienced 16 SSOs between August 5, 2009 and December 2, 2012, with a combined volume of 126,670 gallons – 116,400 gallons of which reached surface waters. For example, on February 21, 2012, a spill occurred at 321 I Street in the City of Eureka. The total estimated volume of the spill was 2,000 gallons, the estimated volume which reached a surface water, Humboldt Bay, was 1,600 gallons.

The Discharger has a history of non-compliance with the SSO reporting requirements of the Statewide General Requirements for Sanitary Sewer Systems, Waste Discharge Requirements Order No. 2006-0003-DWQ ("Statewide WDR") governing the operation of sanitary sewer systems. The Discharger is a permittee under the Statewide WDR which requires that sewer system operators report SSOs to the CIWQS, and include in that reporting an estimate of the volume of any spill, the volume recovered and the volume which reached a surface water. The Discharger's NPDES Permit requires compliance with all provisions of the Statewide WDR. The Discharger's field reports regularly designate the SSO start time as the same time the Discharger was notified of the SSO. These equivalencies are highly unlikely and result in an under-estimation of the duration of the spill. The Discharger's common practice of under-estimating the duration of the spill leads to under-estimating the volume of the spill. The Discharger's SSO records generally do not indicate what method was used to estimate the total volume of the spill, which also calls into question the estimates of volume recovered and volume which reached a surface water.

The Statewide WDR requires the Discharger to take all feasible steps and perform necessary remedial actions following the occurrence of a SSO, including limiting the volume of waste discharged, terminating the discharge, and recovering as much of the wastewater as possible. Further remedial actions include intercepting and re-routing of wastewater flows, vacuum truck recovery of the SSO, cleanup of debris at the site, and modification of the system to prevent further SSOs at the site. One of the most important remedial measures is the performance of adequate sampling to determine the nature and the impact of the release. There is no evidence in the public record that the Discharger is adequately sampling SSOs that reach surface waters in order to properly mitigate the SSO. For example, in the Spill Report referenced above for the SSO at 321 I Street, where a reported 1,600 gallons reached Humboldt Bay at the foot of J Street, Item 44-1.7 states: "No water quality samples were taken".

In addition to SSOs which discharge over land into surface waters, underground leakages ("exfiltration") caused by pipeline cracks and other structural defects in the collection system result in discharges to adjacent surface waters via underground

hydrological connections. Studies tracing human markers specific to the human digestive system in surface waters adjacent to defective sewer lines have verified the contamination of the adjacent waters with untreated sewage.¹ River Watch alleges that such discharges are continuous wherever ageing, damaged, structurally defective sewer lines in the Discharger's collection system are located adjacent to surface waters, including Humboldt Bay and its tributaries. Surface waters and groundwater become contaminated with fecal coliform, exposing people to human pathogens. Chronic failures in the collection system pose a substantial threat to public health.

As stated previously, Discharge Prohibition B as set forth in the Discharger's NPDES Permit, prohibits the discharge of wastes that lead to the creation of pollution, contamination, or nuisances as those terms are defined by Calif. Water Code § 13050. Contamination means "an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health." Pollution means "an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following: (a) the waters for beneficial uses; or (b) facilities which serve beneficial uses." Nuisance means anything which meets the following requirements: 1) "is injurious to health, or is indecent or offensive to the senses . . . so as to interfere with the comfortable enjoyment of life or property"; 2) "affects at the same time an entire community or neighborhood, or any considerable number of persons"; and 3) "occurs during, or as a result of, the treatment or disposal of wastes."

Humboldt Bay and its tributaries have many beneficial uses as defined in the RWQCB's Water Quality Control Plan ("Basin Plan") and the State of California Ocean Plan ("Ocean Plan"). SSOs reaching Humboldt Bay and its tributaries cause prohibited pollution by unreasonably affecting the beneficial uses of these waters. The Discharger is also required by its NPDES Permit to comply with narrative standards as set forth in the Basin Plan, used when testing by numeric standards would be inadequate or impractical. Narrative standards include:

- 1) Waters shall not contain taste or odor producing substances in concentrations that impart undesirable tastes or odors to fish flesh;
- 2) Waters shall not contain floating material in concentrations that cause nuisance or affect beneficial uses;

¹ See the Report of the Human Marker Study issued in July of 2008 and conducted by Dr. Michael L. Johnson, U.C. Davis water quality expert, performed for the City of Ukiah, finding the presence of human derived bacteria in two creeks adjacent to defective sewer lines.

- 3) The pH shall not change within 0.5 units of the range needed for COLD or WARM beneficial uses, such as cold water habitat for fish;
- 4) The bacteriological quality of waters shall not be degraded beyond natural background levels; and,
- 5) Natural receiving water temperatures shall not be altered unless allowed by the RWQCB.

River Watch has found nothing in the public record to demonstrate the Discharger has monitored for and complied with these narrative standards. River Watch is understandably concerned regarding the effects of both surface and underground SSOs on critical habitat in and around Humboldt Bay and its tributaries.

The Discharger has had recent violations of effluent limits as set forth in its NPDES Permit. Between August 20, 2010 and November 20, 2012 there were three (3) violations of effluent limits for chlorine residual and two (2) violations of effluent limits for fecal coliform.

The Discharger's Permit requires an Effluent Discharge Study to assess the transport and fate of pollutants discharged from the Plant, and to assess the critical beneficial uses of Humboldt Bay that are potentially impacted by the ebb-tide waste discharge. (Permit Section C.2.b., p.20). River Watch has been advised by the RWQCB that the results of the Study are likely to show that some portion of the discharge remains in Humboldt Bay, in violation of the Permit requirement that the entire discharge be dispersed to the Pacific Ocean. (Permit section III. A., p. 12).

The Discharger is required to comply with 40 C.F.R. 503 in the use and disposal of biosolids (Permit Section VI. C.5.c.(3), p. 26). River Watch alleges that pollutants from large quantities of sludge stored for extended periods in the Discharger's facultative sludge lagoons discharge to adjacent surface waters, including the Elk River and Humboldt Bay, via percolation from the lagoons to hydrologically-connected ground water. River Watch further alleges that runoff from covered piles of dried biosolids stored on the Discharger's property adjacent to the Plant discharge to the Elk River and Humboldt Bay. The storage of biosolids for more than two (2) years and failure to arrange for the timely disposal of biosolids has resulted in ongoing violations of 40 C.F.R. 503.

River Watch members residing in the area of the Plant and the surrounding watershed have a vital interest in bringing the Discharger's operations at the Plant and associated collection system into compliance with the CWA.

REMEDIAL MEASURES REQUESTED

1. DEFINITIONS

- A. Condition Assessment: A report that comprises inspection, rating, and evaluation of the existing condition of a sewer collection system. Inspection is based upon closed circuit television (“CCTV”) inspections for gravity mains; manhole inspections for structural defects; and, inspections of pipe connections at the manhole. After CCTV inspection occurs, pipe conditions are assigned a grade based on the Pipeline Assessment and Certification Program (“PACP”) rating system, developed by the National Association of Sewer Service Companies. The PACP is a nationally recognized sewer pipeline condition rating system for CCTV inspections.
- B. Full Condition Assessment: A Condition Assessment of all sewer lines in the sewer collection system with the exception of sewer lines located within two hundred (200) feet of surface waters.
- C. Surface Water Condition Assessment: A Condition Assessment of sewer lines in the sewer collection system located within two hundred (200) feet of surface waters, including gutters, canals and storm drains which discharge to surface waters.
- D. Significantly Defective: A sewer pipe is considered to be Significantly Defective if its condition receives a grade of 4 or 5 based on the PACP rating system. The PACP assigns grades based on the significance of the defect, extent of damage, percentage of flow capacity restriction, and/or the amount of pipe wall loss due to deterioration. Grades are assigned as follows:

- 5 – Most significant defect
- 4 – Significant defect
- 3 – Moderate defect
- 2 – Minor to moderate defect
- 1 – Minor defect

2. REMEDIAL MEASURES

River Watch believes the following remedial measures are necessary to bring the Discharger into compliance with its NPDES permit and the Basin Plan, and reflect the biological impacts of the Discharger’s on-going non-compliance with the CWA:

A. SEWAGE COLLECTION SYSTEM INVESTIGATION AND REPAIR

- The repair or replacement, within two (2) years, of all sewer lines in the Discharger's sewage collection system located within two hundred (200) feet from surface waters, including gutters, canals and storm drains which discharge to surface waters, which have been CCTV'd within the past five (5) years and were rated as Significantly Defective
- Within two (2) years, the completion of Surface Water Condition Assessment of sewer lines which have not been CCTV'd during the past ten (10) years
- Within two (2) years after completion of the Surface Water Condition Assessment above, the Discharger will:
 - » Repair or replace all sewer lines which have been found to be Significantly Defective;
 - » Repair or replace sewer pipe segments containing defects with a rating of 3 based on the PACP rating system, if such defect resulted in a SSO, or, if in the Discharger's discretion, such defects are in close proximity to Significantly Defective segments that are in the process of being repaired or replaced;
 - » Sewer pipe segments that contain defects with a rating of 3 that are not repaired or replaced within five (5) years after completion of the Surface Water Condition Assessment shall be re-CCTV'd every five (5) years to ascertain the condition of the sewer line segment. If the Discharger determines that the grade-3 sewer pipe segment has deteriorated and needs to be repaired or replaced, the Discharger shall complete such repair or replacement within two (2) years after the last CCTV cycle.
- Beginning no more than one (1) year after completion of the Surface Water Condition Assessment, the Discharger shall commence a Full Condition Assessment to be completed within seven (7) years. Any sewer pipe segment receiving a rating of 4 or 5 based on the PACP rating system shall be repaired or replaced within three (3) years of the rating determination.

- Provision in the Discharger's Capital Improvements Plan to implement a program of the Condition Assessment of all sewer lines at least every five (5) years. Said program to begin one (1) year following the Full Condition Assessment described above.

B. SSO REPORTING AND RESPONSE

- Modification of the Discharger's Backup and SSO response plan to include the method or calculations used for estimating total spill volume, spill volume that reached surface waters and spill volume recovered.
- For Category I Spills, creation of a listing of nearby residents or business owners who have been contacted to attempt to establish the SSO start time, duration, and flow rate, if such start time, duration, and flow rate have not been otherwise reasonably ascertained, such as from a caller who provides information that brackets a given time that the SSO began.
- Taking of photographs of the manhole flow at the SSO site using the San Diego Method array, if applicable to the SSO; or other photographic evidence that may aid in establishing the spill volume.
- Water quality sampling and testing to be required whenever it is estimated that fifty (50) gallons or more of untreated or partially treated waste water enters surface waters. Constituents tested for to include: Ammonia, Fecal Coliform, E. coli and a CAM-17 toxic metal analysis. The Discharger shall collect and test samples from three (3) locations: the point of discharge, upstream of the point of discharge, and downstream of the point of discharge. If any of said constituents are found at higher levels in the point of discharge sample and the downstream sample than in the upstream sample, the Discharger will determine and address the cause of the SSO that enters surface waters, and employ the following measures to prevent future overflows: (a) if the SSO is caused by a structural defect, then immediately spot repair the defect or replace the entire line; (b) if the defect is non-structural, such as a grease blockage or vandalism to a manhole cover, then perform additional maintenance or cleaning, and any other appropriate measures to fix the non-structural defect.
- Creation of web site capacity to track information regarding SSOs; or, in the alternative, the creation of a link from the Discharger's website to the CIWQS SSO Public Reports. Notification to be given by the Discharger to all

customers and other members of the public of the existence of the web based program, including a commitment to respond to private parties submitting overflow reports.

- Performance of human marker sampling on creeks, rivers, wetlands and areas of Humboldt Bay adjacent to sewer lines to test for sewage contamination from exfiltration.

C. LATERAL INSPECTION/REPAIR PROGRAM

- Creation of a mandatory, private sewer lateral inspection and repair program triggered by any of the following events:
 - » Transfer of ownership of the property if no inspection/replacement of the sewer lateral occurred within twenty (20) years prior to the transfer;
 - » The occurrence of two (2) or more SSOs caused by the private sewer lateral within two (2) years;
 - » A change of the use of the structure served (a) from residential to non-residential use, (b) to a non-residential use that will result in a higher flow than the current non-residential use, and (c) to non-residential uses where the structure served has been vacant or unoccupied for more than three (3) years;
 - » Upon replacement or repair of any part of the sewer lateral;
 - » Upon issuance of a building permit with a valuation of \$25,000.00 or more;
 - » Upon significant repair or replacement of the main sewer line to which the lateral is attached.

D. EFFLUENT DISCHARGE MANAGEMENT

- Completion of an Effluent Discharge Study by January 8, 2014, in compliance with the Scope of Work approved by the RWQCB. If results of the Study indicate that all effluent from the Plant does not exit Humboldt Bay during ebb tide discharge and that water quality objectives are being exceeded, the Discharger is to conduct sampling to verify and assess the extent of beneficial use impairment and to develop an alternative discharge strategy no later than January 8, 2015. All study results and proposals for alternative discharge

strategies to be provided to River Watch at the same time they are provided to the RWQCB.

E. BIOSOLIDS MANAGEMENT

- Development of a plan for the storage and disposal of biosolids in compliance with 40 C.F.R. 503 and in a manner which prevents the discharge of pollutants from stored biosolids to adjacent surface waters via surface runoff or percolation to hydrologically-connected ground water.

VIOLATIONS

River Watch contends that from July 24, 2009 through June 10, 2013, the Discharger violated the requirements of the Discharger's NPDES Permit, the Basin Plan and the Code of Federal Regulations, as those requirements are referenced in the NPDES Permit, with respect to the Plant and associated collection system. Said violations are evidenced in the Discharger's Self Monitoring Reports, testing data compiled in compliance with the NPDES Permit or other orders of the RWQCB, and other documentation filed with the RWQCB or in the Discharger's possession, and as evidenced by unpermitted discharges due to failures in the collection system. Furthermore, these violations are continuing.

The violations, include, but are not limited to, the following categories in the NPDES Permit:

Discharge Prohibitions

Violations Description

1400 Collection system subsurface discharge caused by underground exfiltration – an event in which untreated sewage is discharged from the collection system prior to reaching the Plant. Underground discharges are alleged to have been continuous throughout the period from July 24, 2009 through June 10, 2013.

Order No. R1-2009-0033, Discharge Prohibition III.E: “The discharge of untreated or partially treated waste (receiving a lower level of treatment than described in Findings II.B of the Order) from anywhere within the collection, treatment, or disposal systems is prohibited, except as provided for in Prohibition III.F and Attachment D, Standard Provision G (Bypass)”.

Order No. R1-2009-0033, Discharge Prohibition III. F: “Any sanitary sewer overflow (SSO) that results in a discharge of untreated or partially treated wastewater to (a) waters of the State, (b) groundwater, or (c) land, that creates

Order No. R1-2009-0033, Discharge Prohibition III.D. "The discharge of sludge or digester supernatant is prohibited, except as authorized under section VI.C.5.c of this Order (Sludge Disposal and Handling Requirements)."

Effluent Limit Violations

Violations	Description
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3	Effluent Discharge Exceeding The Permit Limit For Total Chlorine Residual.
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Order No. R1-2009-0033, IV. Effluent Limitations and Discharge Specifications, A. Final Effluent Limitations, 1. Final Effluent Limitations – Discharge Point 001

2	Effluent Discharge Exceeding The Permit Limit For Fecal Coliform.
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Order No. R1-2009-0033, IV.A.1.c. "Bacteria: Disinfected effluent discharged from the WWTF at Discharge Point 001 shall not contain fecal coliform bacteria in excess of the following concentrations: (1) The median value of fecal coliform bacteria shall not exceed an MPN of 14 per 100 milliliters in a calendar month, and (2) In not more than 10 percent of samples collected in a calendar month shall fecal coliform bacteria exceed an MPN of 43 per 100 milliliters."

Monitoring Requirements

Violations	Description
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15	Failure to monitor, report or adequately describe violations.
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The majority of these violations occur due to failure to report violations of Discharge Prohibition III. E of Order No. R1-2007-0013, failure to report violations of Discharge Prohibition III.D of Order No. R1-2007-0013, as well as failure to adequately describe reported violations of said provisions.

CONCLUSION

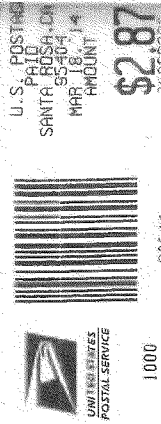
The violations as set forth in this Notice effect the health and enjoyment of members of River Watch who reside and recreate in the greater Eureka area community. These members use the affected watershed for domestic water supply, agricultural water supply, recreation, sports, fishing, swimming, hiking, photography, nature walks and the like. Their health, use and enjoyment of this natural resource is specifically impaired by the Discharger's violations of the CWA as alleged in this Notice.

Law Office of Jack Silver
P.O. Box 5469
Santa Rosa, CA 95402-5459

X-RAYED

MAR 21 2014

LOW MINUTOM



Need
DME
reference

This was attached
to D4 #233506
& put as claim that
is a new piece -
needs a D.M.#.

Regina

Citizen Suit Coordinator
U.S. Dept. of Justice
Environmental & Natural Resource Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, DC 20044-7415